

WASHINGTON STATE GAMBLING COMMISSION

MINUTES SPECIAL COMMISSION HEARING KALISPEL TRIBAL-STATE CLASS III GAMING COMPACT WEDNESDAY, OCTOBER 14, 1998

Acting-Chairman Forrest called the meeting to order at 1:30 p.m. at the Days Inn, Spokane, Washington.

MEMBERS PRESENT: **MARSHALL FORREST, Vice Chairman;**
 CURTIS LUDWIG; and
 PATRICIA L. HERBOLD; and
 Ex Officio Members SENATOR MARGARITA PRENTICE;

SPEAKERPHONE: **LIZ McLAUGHLIN, Chairperson**
 EDWARD HEAVEY; SENATOR RAY SCHOW,
 REPRESENTATIVE RUTH FISHER,. And
 REPRESENTATIVE KAREN SCHMIDT

OTHERS PRESENT: **BEN BISHOP, Executive Director;**
 AMY PATJENS, Public Affairs Manager;
 JONATHAN McCOY, Assistant Attorney General;
 and SUSAN YEAGER, Executive Assistant.

Acting-Chairman Forrest said he will be conducting this meeting on behalf of Chairperson McLaughlin, who is present via speaker phone. He welcomed her to the meeting. **Chairperson McLaughlin** said she was happy to be joining the meeting.

PRESENTATION BY BEN BISHOP, EXECUTIVE DIRECTOR, **WASHINGTON STATE GAMBLING COMMISSION**

Director Bishop gave an overview of the Gaming compact between the Kalispel Tribe of Indians and the State of Washington. He showed a PowerPoint presentation, a hard copy of which is attached. He introduced the Tribe's attorney, Kent Caputo, saying he would introduce the tribal members. He said the purpose of the Compact was due to a federal law called the Indian Gaming Regulatory Act (IGRA), which says that if a state permits Class III gaming, the state is required to negotiate in good faith so that tribes may have the same type of activity.

Director Bishop said there was turmoil in the 1980s regarding Indian gaming – bingo games were springing up everywhere; it was a very good way for tribes to make some money to help themselves. In the mid-'80s there was an important case in California called California v. Cabazon Band of Mission Indians (Cabazon). In that case, California attempted to apply state law to the tribes. The Tribe sued the state in federal court. In 1987, the U. S. Supreme Court ruled in favor of the Tribe. This caused concern among states because, in essence, it said the tribes could conduct gaming if the state conducted it and the state had no say in it. The states requested Congress to intervene and in 1988 Congress passed Public Law 100-497, now known as IGRA.

Director Bishop said the purpose of IGRA was to promote tribal economic development, allow self sufficiency of tribes, and to promote strong tribal governments. They wanted to shield the tribes from organized crime, make sure that the tribe was the primary beneficiary of any income from gaming, and to assure honest and fair operation of the games. The key factors, from the

state's perspective, were the classification of gaming, authorized types of gaming, where gaming can be conducted, and jurisdictional issues. He said there are three classifications for gaming. Class I Gaming pertains to traditional forms of Indian gaming such as stick games. There are no conditions for conducting this type of gaming other than conducting the activity on Indian lands. There is no Compact and the Tribe has sole jurisdiction. Class II Gaming pertains to bingo, pull tabs, punch boards, lotto, and non banked card games. The non-banked card games must be conducted during the same hours of operation and the same wager limits as those that are conducted under the state's purview. Class II Gaming must be conducted on Indian lands and requires no Compact. Once the tribe has land that is Indian and qualified and the state conducts bingo or punch boards and pull tabs or has card games, the tribe can conduct that without a Compact. This came out of the Cabazon, which was a trade-off between the state and federal government where only the federal government is involved in regulating Class II Indian games. Typically the tribe is the primary regulator in that area. Class III Gaming pertains to everything else and the conditions for conducting Class III Gaming is the subject of today's discussion. Slot machines also fall into this category, but will not be part of today's discussion, because they are illegal in the state.

Director Bishop said that if an activity does not fall into a Class I or Class II category, it is considered to be Class III. He said the State must permit the activity by tribes if it allows it for any person for any reason. If the state allows blackjack, then the tribes can do blackjack. If the state allows fundraising events, then the tribes can also do fundraising events without limitation, except that there must be a tribal-state compact in place before Class III activities can be conducted. Class III games must take place on Indians lands, which are divided into two categories: 1) pre-October 17, 1988, lands, those that were within the limits of the reservation as of that date; and 2) lands held in trust or owned by the tribe and over which they had exercised governmental authority. There are exceptions to this rule, however. Lands acquired after October 17, 1988, could also have gaming conducted on them under certain circumstances. If the tribe acquired land that at one time was within the boundaries of that reservation as it was defined October 17, 1988, or if they purchased land that was contiguous, connected to, or beside that land. Also, other lands qualified, if approved by the Secretary of the Interior that is the property that is under discussion in Airway Heights.

Director Bishop said that under IGRA the Secretary of the Interior is required to go through an approval process. The Secretary is required to consult with the tribe and state and local officials to determine if this would be in the best interests of the tribe. In other words if the property is determined to be Indian lands, would it be in the best interests of the tribe and not detrimental to the community. If the Secretary makes that determination, the Governor must concur with the determination that has occurred on this piece of property.

Director Bishop said several groups had jurisdiction in Class III Gaming: 1) the tribe has jurisdiction and must have an ordinance which is approved by the Secretary of the Interior, 2) the state has been negotiated into the compact and 3) the federal government has jurisdiction through the Secretary of the Interior who carries out certain approval processes, and 4) the National Indian Gambling Commission (NIGC).

Director Bishop said no one forces a tribe to negotiate a compact. The first step in negotiating a compact is that it must first be requested by a tribe. Second, the Commission director confers with his stakeholders, who usually are state and local officials, the public. After the compact has been negotiated, there is an approval process. Local governments and communities are the first group of stakeholders. A local caucus is made up of local law enforcement agencies, emergency service providers, government agencies – predominantly those that deal with health, safety, or infrastructure type of situations. Their interests are brought to the negotiations and typical interests are what's going to happen when this casino opens, such as more robberies. Law enforcement issues are discussed – these can be noted within the compact. Unique to this compact is a separate agreement between City of Airway Heights and the Tribe that deals with

infrastructure issues.

Director Bishop said another stakeholder is state government that also has a caucus that is made up of law enforcement and revenue and any others who are involved in gambling. Many were invited, but did not see where they should be involved and did not attend. The state is interested in having a strong regulatory involvement to be sure there is no criminal involvement in this activity. They want to make sure that the game is conducted fair and honestly. Gaming is limited to those that are authorized in this state for any purpose, and finally to minimize negative community impacts.

Director Bishop said that the policy and decision making process also has several steps to go through. After the compact is negotiated and finalized, it is submitted to the Commission and the Legislature simultaneously. The Legislature has 30 days to review a compact, hold hearings, and if they desire, to make comments. The Gambling Commission has 45 days to hold public hearings—to forward it to the Governor as it stands, or, to return it to the director for further negotiations. If they elect to forward it to the Governor, he reviews and has final execution authority for the state. Once the state has approved it, the tribe must submit it to the Secretary of Interior for their approval.

Director Bishop said the provisions in the compact fell into four general categories. 1) general requirements 2) scope of gaming 3) jurisdictional issues and 4) regulation of the activity. Under general requirements no credit is allowed which is the same both for the state and tribal gaming. The tribe must own and operate the facility but they can have a management company and financiers from outside the tribe, but these must be approved by the NIGC. The building that will be located in Airway Heights will be a tribal facility. Customers must be 18 years old or if the tribe elects to enter into a separate agreement with the Liquor Board, then 21 years old for anyone who is consuming alcoholic beverage. No firearms are allowed within the facility that does not include law enforcement, the state, or tribal gaming agencies.

Director Bishop said that the scope of gaming is a two-phase process in this state. It includes the types of games --which includes almost every type of casino game other than machine gaming -- the number of facilities, size of the facilities, number of gaming stations, wagering limits and hours of operation. **Phase 1** starts at the opening and lasts for at least the first six months. There will be one facility with no size restriction -- it can be as large as the tribe desires or can afford. The wagers will be a maximum of \$250 per wager; they will be allowed to have 31 gaming stations plus one, if they elect, for charity for a total of 32. The hours of operation would be 112 per week, 20 per day. In addition, the compact calls for the casino to be closed between the hours of 2 a.m. and 6 a.m. unless approved by the tribal gaming agency, state gaming agency, and local law enforcement to modify those hours which is similar requirements to card rooms within this state. In addition to this the tribe can be allowed to have up to three 72-hour events during the year, although these would count against their 112 hours per week.

Director Bishop said **Phase 2** criteria requires the casino to have been operating for at least six months, no compact violations resulting in a federal court actions that impose sanctions on the tribe, or any substantial violations that are non substantial that due to repetition would be deemed material, no material adverse effects on the community. The impacts are those that would generally be related to criminal activities that occurred in or because of the tribal gaming facility. The tribe must demonstrate a strong, regulatory program and finally, must be approved by the Gambling Commission. The Phase 2 review is a substantial investigation and overview by the staff before it occurs. They look at the operation of the casino and how the tribal gaming agency is performing their regulatory duties. These typically take 300 to 500 staff hours to complete.

Director Bishop said that in Phase 2 the tribe would be allowed to operate in one facility, wagers increase to \$500, the number of gaming stations increase to 50 plus optional two for charity. Operating hours increase to 140 and the daily limit remains the same and the closing times

remain the same. In call cases, there is a four-hour closure of the activity. The compact calls for joint criminal and civil jurisdiction related to gaming activities. This does not mean that the state can go in and become involved in non-gaming activities on a reservation, but anything relating to gaming, the state has joint jurisdiction with the tribe.

Director Bishop said that there is also a state/tribal partnership for the regulation. Both the state and the tribe have their separate gaming commissions. The licensing is a very important aspect of any gaming regulation. In the case of individuals in companies, the state by compact certifies each of these. Prior to certification, staff perform a full criminal background check on all the individual licensees as well as key employees of companies involved. Staff also conduct a complete source of fund of any financiers or companies coming in to make sure that there are no undisclosed owners. After the state certifies that this would be an individual or a company that could be licensed in Washington, the tribe licenses the individuals and companies. The tribal gaming agency and the state gaming agency jointly monitor compliance with the compact, enforce tribal and state criminal laws, and investigate player complaints. An important part of this partnership is that the state government, via taxes or our licensees, does not pay for this regulation; the tribe pays the state for its cost.

Director Bishop said that the community contribution part of the compact is very important. He said in this compact the tribe has set aside up to four percent to be involved. Two percent of the proceeds from the gaming – the net win – will go to the City of Airway Heights under a separate agreement that the tribe and the city agree upon. That is approximately \$375,000 or two percent, whichever is greater. In addition, they set aside up to two percent of the net win for demonstrated impacts within the community. These funds are distributed and agreed upon to distribute by committee. The committee is made up of two tribal representatives, a representative from the City of Airway Heights, a Spokane County commissioner and a member of the state gaming agency appointed. There are five votes, or four votes with the state being the breaker in the event of a tie.

Director Bishop said there is a myth that the tribe does not have to comply with the requirements that any other business has to meet to go into business in this state – to build a building or other things. The state has requirements regarding health, safety to environmental issues. The tribe must comply with the federal standards so they do comply; it is just a different standard. The compact has a most favored nation provision that gives the tribes the ability to ask in good faith for types and scope of gaming issues that other tribes gain. If one tribe, due to their circumstances, was able to increase the number of tables, this tribe would also be able to come forward and ask that they be afforded the same opportunity. It includes a three-year moratorium whereby the tribe won't be back asking for anything normally for three years.

Director Bishop said the compacts are not set in concrete and there are at least four circumstances that could change the compact. 1) state or federal law changes to allow different activities or different scope. The most favored nation clause is an example. 2) a state or federal court decision that impacts the scope of gaming, 3) the federal Indian Gaming Regulatory Act could change, and 4) other factors not yet identified.

Acting-Chairman Forrest asked if there were questions. There being none, Director Bishop introduced Kent Caputo as the next speaker.

PRESENTATION BY THE KALISPEL INDIAN NATION

Kent Caputo, attorney for the Kalispel Tribe introduced a panel who were called upon to be a resource for questions from the commissioners and the public. They are Glen Nenema tribal chair, Richard Ralston and Nettie Alvarez, attorneys who worked with Gambling Commission staff, Bob Sturgis, President of Carnival Resort and Casinos Gaming Group, Mr. Bill Johnson, Vice President for Indian Gaming.

Glen Nenema introduced the Kalispel Business Committee. Mr. Stan Bluff, Vice Chairman, Tina Syjohn, council member, Theresa Andrews, council member, Kurt Holmes, council member. Also David Bonga, in-house counsel, and Thomas Lien, tribal business manager.

Senator Schow (who was on a speaker phone) asked a question which **Senator Prentice** repeated aloud. **Senator Schow** wanted to know if the three-year moratorium on any new activities would also apply to the results of the friendly lawsuit. Before the answer could be given, **Acting-Chairman Forrest** explained that the friendly lawsuit was a suit between the state and the Indian tribes to try to settle what games were permissible. As a result of that there will be a hearing tomorrow where this will be explored in more detail. A new amended compact is being presented on behalf of the negotiating tribes – the tribes who participated in those negotiations. They and the legislators vote on the approval or disapproval of the compact.

Director Bishop said this is a new activity that other tribes (should it be approved) would have the ability to operate the Kalispel under the most favored nation clause, and would be allowed to come forward and ask for that activity without waiting the three years.

[seemed to be some technical difficulties at this point]

Acting-Chairman Forrest said that there had been several written presentation each of which in one way or another raised the question of whether the proposed location is a suitable location. He called on Jon McCoy to bring the Commission and the audience up to date on what the ground rules are in that regard.

Jon McCoy, assistant attorney general, said any gaming regulatory act can only occur on Indian lands. The first question had to do with when the Secretary first took the lands into trust on behalf of the Kalispel Tribe, that became for federal law, Indian country. That means that the federal government does have jurisdiction over that land. The Indian Gaming Regulatory Act is a federal law. The next issue was because the land was taken into trust after 1988, it required a specific determination from the Secretary of Interior that gaming, if it were to occur on the land, be in the best interests of the tribe and not be detrimental to the local community. In making that determination, the Secretary did a fact-finding process, the Governor was consulted on that issue, and there were two days of hearings that were held by the Gambling Commission to gather information on that. Based on that information, the Secretary made the determination that the gaming on that land was appropriate and asked for the Governor's concurrence in that determination. The Governor did agree with the secretary on that.

Mr. McCoy said that what that means for purposes of this compact is that gaming is authorized for that land; that is, the Governor agreed that this was an appropriate place for gaming to occur. That issue is exclusively the Governor's determination under federal law and it is not the place of the Commission to second guess that and it has no authority to overturn that decision. Subsequent to that determination, the negotiations took place with this particular location in mind and so the provisions of the compact that have already been discussed were based upon this particular location. In summary, the answer is that the regulatory issues that are normally considered by the Gambling Commission are still on the table but the location in terms of whether it's legal for them to do it there has already been determined by the Governor and cannot be overturned by this Commission.

Acting-Chairman Forrest announced that one of their ex officio members and two regular Commission members were unable to be present in person, but would be participating and voting by telephone. He then introduced those who were present in person at the head table: Senator Margarita Prentice, Commissioners Patricia Herbold and Curtis Ludwig, Assistant Attorney General Jonathan McCoy, Public Affairs Manager Amy Patjens, and Executive Director Ben Bishop.

PUBLIC TESTIMONY

Acting Chairman Forrest said there would be a tight limit on participation because of the number of people who wished to speak. As a result, Ms. Patjens was appointed timekeeper and would will let each speaker know when they were nearing the end of their allotted time. He said there had been a number of communications, both pro and con, as to the approval or disapproval of this compact that was presented to the commissioners and that had been read in advance, so it was not just what would be stated in testimony, but the content of the letter that had been already submitted that would be influential to the outcome.

Dale Perry, City of Airway council member and mayor pro tem. He said the only concern the Council had about the compact was their agreement with the Kalispels and they were told that that would not be part of the compact, but they were also told that their attorney, Tom Kingen, saw no problem – that that separate agreement would still be honored. He said he had talked to members of the Kalispel Tribe and Carnival and they assured them that separate agreement would also be honored. He said the Council now is 100 percent behind this proposal – not the original split vote when it was originally approved. All five members are in favor. Business supports it. There are businesses that are looking at locating in their city and they see this as an economic boom for the city and also good for the Kalispel Tribe and he asked that it be approved by the Commission and forwarded to the Governor. He said that the Impact Mitigation Fund issued had been adequately addressed which will take care of law enforcement – they don't know what the impacts will be and there are sure to be some problems. There will be an elected city official from the City of Airway Heights on that committee, so he hope the Commission would approve it.

John Holloway, citizen of Airway Heights, said he is also one of the planning commissioners, but he is not speaking on behalf of the other six members of the Planning Commission. [end of side A Tape 1] He said he personally feels that this compact is a win-win situation for everyone. He said the Kalispel Tribe need the revenue to improve their Tribe. He said he thought their reservation was the smallest and it was mostly scab rot (??) so they need to improve their tribal positions and their incomes and Airway Heights needs the revenue. So far they have been good neighbors and he supports it and feels it is a good thing for the community.

Don Harmon, former mayor of Airway Heights, said the presentation made earlier took four years to put together and they have worked hard to reach this agreement and he felt it set a good example for the other tribes to follow. He compared those who disagreed with this compact because it interfered with competition to a business who was opposed to another business locating across the street from them because it would create competition. He encouraged the Commission to approve the compact and said it was a pleasure to work with this tribe. He said he was the lead person for Airway Heights/Kalispel Tribe compact.

Sharon Agte, private citizen, said that Director Bishop has answered her questions with his presentation, but she wanted to say that as a citizen and resident of 27 years, she is very happy that a sovereign nation can help itself and help out with much needed economic issues. Her only question regarded the charity tables – whose charities?

Ms. Patjens explained that when a tribe is in the first six months of operating a casino, they can operate 31 tables, one of which can be for charities if they choose. After the six-month period they can do 52 tables, two of which can be for charities if they choose. She that other tribes have appointed a committee who would receive applications from affected charities and then the committee would decide which charity should receive the fund and how much.

Paul Allison, attorney for Players and Spectators, a Spokane Valley casino. He said he was interested in Mr. Harmon's comment comparing two competing grocery stores. He said if both stores are competing under the same rules and regulations is one thing; however, when they are

not, there is a real concern. He said in this instance, the playing field is not level. He said in the introductory remarks, it was noted that the tribes could have the same type of activity as is otherwise authorized in the state of Washington. And what is otherwise authorized does up to a limit of 15 tables and \$100 and doesn't have Roulette and doesn't have Chuck-A-Luck and doesn't have a whole lot of other things and the compact being proposed is not the same kind of activity that is allowed to private locally-owned, tax-paying gaming operations in the state of Washington.

Mr. Allison said that there were two or three items he wished to comment on. Washington Motor Sports by a deed says that they made a gift of land to the United States of America. He said he had difficulty believing that it was a gift. He said to the best of his recollection, they had not been in the practice of making major gifts to the United States, the state of Washington, the City of Airway Heights or anyone else and he thought that this statement in the deed that it was a gift is not a fair statement and he asked the Gambling Commission to look into that to see if it was in fact a gift or if there were some other consideration.

Mr. Allison said it had also been brought to his attention that there is some sort of joint venture between Washington Motor Sports and the Kalispel Tribe – he said he was not saying that there is; he does not know what the terms are, but he thought it only right that the Gambling Commission should look into it to see what precisely is the arrangement between the Washington Motor Sports that supposedly made a gift of this land and the Kalispel Tribe or Carnival Cruise Lines or whoever. He said the relationship between the tribe and Carnival Resorts and Cruise Lines should be looked into. He said this is a business which is located many miles away – in Florida, to his knowledge – and he suspects that gaming activities may be international and gaming probably also takes place on the cruise lines. He said this seemed unusual from a locally owned, family owned business such as most of the other gaming operations in Spokane County are and it seemed that that constituted an unlevel playing field.

Director Bishop asked to briefly respond to Mr. Allison's remarks. He said that during his introduction, he had said that if gaming was conducted in Washington by any person for any reason, then the tribes could do it. Since the late 1970's, the charities have been allowed to conduct fundraising events or Reno Nights, Las Vega Nights, or whatever. Those activities allow all types of gaming other than machine gaming, which is the reason that the state is involved in negotiating these compacts. With regard to the property, the Bureau of Indian Affairs conducted an extensive investigation regarding transfer of the property and the tribe can respond to this if they choose at a later time. With regard to Carnival Cruise Line's involvement, if they get to the point, Carnival will be investigated by the Gambling Commission Agency extensively. He said the state of Washington has been recognized as being very good in the area of investigations. He assured that anyone involved in this gaming will be investigated.

Leonard Parks, retired consulting engineer, said he is speaking as a private citizen. He said after listening to the opening remarks and later comments and reading some of the literature he has seen, he said that he recalls in the past year or so, there had been a number of small casinos starting to operate in the City of Spokane. He said Spokane is faced with a new casino which he thinks will be larger than all of those which presently exist in the city. He said they didn't locate in Airway Heights because there is a large number of people in Airway Heights who wish to gamble. He said they were there because Airway Heights is very close to the City of Spokane. The net profit from the casinos in Spokane in general goes back to the city. The money which will be derived from the facility in Airway Heights will in no way go back to the City of Spokane although it will come from the city. He said it will obviously go to the Indians, to their financial backers, and to whoever has a stake in this operation. He said such an installation is a decided detriment to the whole community.

Tom Flynn, Spokane Labor Council and a union carpenter, said that their Council represents 54 local unions in the City of Spokane, 13 of which are building trades. He said they have been behind this project for the last three years and they have a good coalition with the Kalispel Tribe and he commends them for taking this risk and wanting to help their own people improve their wages, hours, working conditions which is what the unions fight for every day.

Rob Saucier, Mars Hotel and Casino, said he is neither testifying for or against this. He said that since the Tulalips first opened their casino in 1990, they have some history with tribal gaming. The concerns that they had regarding increase of crime or detriments to the surrounding community have been satisfied. He said they have learned through many studies that that has not been the case. He thinks the casino will be good for the City of Airway Heights and good for the Tribe. His concern is what effect this casino will have on the local commercial businesses already operating. He said at the Silverdale Commission meeting, the bingo operators in the area have been suffering a dramatic decrease in business. Part of that at the time was attributed to what the small card rooms were doing, but he said a major factor not discussed was the fact that there was a 1,000 machine casino that opened up just over the border in Idaho. He said one of the important things about this facility is it's far more remote than Airway Heights; they do have 1,000 Class II machines.

Mr. Saucier said that with a combination of the location of Airway Heights, the gaming that is allowed under the compact and then adding 500, 750, or even more Class III machines, would create something like this state has never seen before. He said that would have a devastating effect on the rest of this industry. He said the fundraising events bear witness to what has happened already. Fundraising events started this whole thing, but it occurred to the demise of fundraising events which have disappeared. He said the example given by former mayor Harmon about competing grocery stores is apt in that gambling interests are competing "grocery stores" except these stores have been told they can have no "produce section", no "meat section" no "dairy" so the problem is again one of trying to compete. In many instances that is limited by the Legislature and they are aware of that and have gone to the Legislature before and will again as needed, but he hoped the Commission to the extent that it is under the regulatory framework, and to the ability that it has under state law, would try in the interest of fairness to offer the commercial interests some of the same opportunities that is being offered to the Tribe today.

Richard Wagner, said he is a single person, working two jobs to put his children through college and pay taxes. He said he is thankful for the local casinos in Spokane which have given him and others a chance for a greater income and good jobs. He said he proud to be a dealer at Silver Lanes Casino. He said local casinos have created jobs for the citizens of Spokane and great revenues for the city, so he is definitely for casinos as a form of entertainment. But he as a voting citizens has a several of concerns: 1) he wants to keep the money in Spokane and Airway Heights and greater Spokane area; and 2) the tax rates rates vary from 15 to 20 percent between the city and the county local gaming facilities, but a 2 percent tax for the Kalispel Tribe or any tribe or anybody else makes it unfair. He said this country was created on equality and he believes all casinos should be taxed at the same fair rate. 3) He doesn't want big gaming operations to come and close down locally owned entertainment casinos that are spread throughout the city. He said Spokane is a conservative and beautiful city and he wants it to stay that way – he doesn't want Vegas and Reno and Atlantic City-type operations in the area. A few local area casinos is great. When the mega-size corporations come into Spokane and build these large casinos, not only do they take the money out of the Spokane and Washington State area, they just hurt the other casinos in town that are locally owned and supported by Spokaneites and he doesn't want to see his job and others like his lost to maybe just one in Airway Heights right now, but this may just be the beginning of two, three and four of these big ones. He wants it to stay local and in Spokane. In summary he wants it to stay as entertainment, fair taxation, and keep it Spokane.

Director Bishop said that while he appreciated Mr. Wagner's concerns and comments, he wanted to clarify with him that the National Indian Gaming Act prohibits states from taxing tribes. He said the state has negotiated with them to help offset the impacts of gambling, but taxation is prohibited. The issue of fairness must be addressed at the federal level.

Jerri Frissell, said she is also a dealer at Silver Lanes. She is a single mother and she has raised four children by herself. She said this is probably the only job she could get without going to college where she could make \$10 to \$15 an hour or so. As a mother of four children she worries about the possibility of a Las Vegas-style atmosphere and the type of clientele that will attract to the state of Washington and how that will affect the children of the state.

Julie Smitt, said she is the chairman of the Airway Heights Expanding and Developing Committee, which is a local group of people who support the Kalispel casino. She said she wanted to draw attention to the fact that the Kalispels now only have a gaming facility planned for that site, but they also have what's called the Camus Institute of Social, Cultural, Educational Facility whose operating revenues will be coming from the casino and the revenues generated by the gaming. She said they have followed along with the Kalispels for four years. They have broad support and they represent business owners, employees of the local businesses, and residents of Airway Heights. She herself is a resident. Her group has nothing but admiration for this process; there's been tremendous amount of review, examination, public input and they have total faith in the process and are very pleased and wish to commend and congratulate the Kalispels for the work and the time and the effort they have put in to seeing this dream become real and they approve wholeheartedly for their plans for the site in Airway Heights. She thanked the Gambling Commission for the time and energy spent in negotiating this compact and they urge its adoption and approval.

Afton Burnham, said she is an enrolled member of the Kalispel Tribe. She encouraged the approval of this compact. She said the compact exemplifies what a state three gaming compact should be. She said they have worked long and hard and have done an excellent job of outlining the tribe's specific intentions and what they want to do. She said it would bring several employment, economic, and educational opportunities to the tribe.

Robert Coltrin was not present to testify.

Marie Crampton, Spokane County Coalition Against Gambling, said she talked to her senator recently and he said she is a "voice crying in the wilderness." She said it was her opinion that the Kalispels were looking at "pie in the sky." The compact is wonderful and she has nothing against it, but there is no heart in it. She said people forget the families out there who have been broken up by gambling. Not because of the facility, but because of the activity. She said this would not create new wealth. Carnival is going to loan them \$17 million for a six-year payback, so there's not going to be very much coming out of the casino for Airway Heights or for anyone else. They're going to be taking away visitors to all of the card rooms in the county in the valley, north, wherever, so their businesses will follow the fate of the bingo halls where the money was supposed to go to children.

Ms. Crampton said she was not against the Kalispels trying to take care of themselves, but she felt it would not do what they are expecting and it would depress legitimate businesses and increase welfare costs, crime and leads to suicide and dysfunctional families, and exploits the weaknesses of individuals and produces human desperation. It produces the wrong attitude for young people as far as work is concerned. They look at the casino and wonder why they should work when they can make a lot of money gambling. She said there was degradation in that. She said the Coalition Against Gambling sent petitions to the government, to the Governor, to the Indian representatives in Portland. They have sent letters and made telephone calls out of their own resources and yet no one is paying attention to them. She said that everyone was looking only at money, but there was going to be none.

Ms. Crampton she said the land they want to put this on is said to be Indian land and so far she has not seen a paper that states that that it is legally Kalispel land. The IGRA states that any land that is not Indian land and they want to turn it into Indian land must be contiguous to their own reservation. She said that it was not contiguous. She said it had been stated that there is no limit to the size of the building – that they can build out there. She said that meant that they could put a building on 40 acres which meant that it could stretch from the correctional facility and the racetrack and to the back of her friends land and to the road. She said in a big building like that a lot of things could be done in there. She said she would be upset if they then put a children's room in the casino so the children would be cared for while their parents gambled.

Commissioner Ludwig asked Ms. Crampton which senator she had spoken to. **Ms. Crampton** said she would rather not reveal his identity.

Vern Patton, said he is a citizen of Airway Heights and a former member of the Airway Heights City Council for six and a half years and he wanted to reiterate one more time that this is a very bad idea. He said he had written to the Commission several times, the Governor, the Secretary of the Interior, telling them the same story – the citizens of Airway Heights had absolutely no choice, no democratic voice in this process. He said they were hoodwinked out of their choice; no was listened to anyone who suggested that it be put to a vote of the citizens of Airway Heights. After the fact, he and another citizen conducted a door-to-door survey of Airway Heights and the citizens are now as they were then 3 to 1 against this casino. He said they had been cheated out of their democratic choice by Mr. Don Harmon who used devious procedures for the accomplishments of goals. He said he did not see how Airway Heights would gain what they gained rebates from the casino. They will spend in other areas – law enforcement, fire

department, upkeep of the infrastructure to support this thing. He said he could not see how there would be any economic benefit to the area – the money would not stay here.

Donna Kerst, yielded her spot to [inaudible]

Jeanne Benson, a private citizen and also a recovering compulsive gambler who deals with problem gamblers in this area. She said she signed up prior to Marie Crampton but was not called upon. She said she had no problem with this compact, but asked about the two percent of net win to go to providing assistance, law enforcement, emergency services, and/or service agencies. She said she heard nothing in this compact about treatment. She said most people were aware about the statistics about problem gambling – 52 percent of the casino revenues are from problem gamblers. She said there are going to be problems and she suggested that the Commission or somebody should start addressing treatment. She asked if this was just going to be left up to the Tribe or owners if they decide to donate money to treatment.

Ms. Patjens, said the Washington State Gambling Commission has been one of the largest funders of the Washington State Council on Problem Gambling and they give \$150,000 a year to that organization. That is primarily how that is addressed in the state and then the Council is very active in outreach programs. They are also working on a certification program for their counselors. The issue is not directly addressed in the compact; however, it is addressed by this Commission and also many of the tribes across the state have chosen to donate to that Council.

Senator Prentice said she has always thought the state is not doing enough for problem gamblers and although she does not yet have written legislation she is in the process of developing ideas for legislation which would require all gambling licensees to come up with a plan as to how they are going to be dealing with what is very obviously the problem gambler. She said she thought the owners of facilities have a pretty good idea of who's in trouble.

Commissioner Ludwig pointed out that the funds that this Commission uses are licensee's fund for licenses, inspections. No general fund or tax dollars are used by this Commission, so when Ms. Patjens says "Our budget includes \$150,000 for the Council on Problem Gambling" that's coming from the licensees and operators.

Bret Ovnicsek said he represents 830 members of OPRAN which are people who raise horses in Eastern Washington. Building on the analogy of the word "supermarket", he said OPRAN do not have the "produce" and the "meat" nor the "bakery" or the "place where you can buy lotto tickets". He said they were not afraid of the competition as long as the field was level. He said 830 members of OPRAN are self employed and do need these jobs and they would like to be able to compete fairly.

John Kieffer, Vice Chairman, Spokane Tribe said the Spokane Tribe had no problem with the Kalispels generating revenue from gaming as long as it is generated on the Kalispel tribal lands or adjacent lands to its reservation near us – not on Spokane tribal ceded lands. He said the Spokanes and the Colvilles have proved that money can be made in the outlying areas. He said they were 60 miles from Spokane. He said he could not be convinced that the survey that was done by the Governor and Secretary Babbitt would not have an effect on the Spokane's gaming. He would never understand how the state or Babbitt came up with that. He said that if this proposal is approved, there was a good chance that the Spokane Tribe will be planning to come into Airway Heights or Spokane or elsewhere to put their own big casino up and he wondered if those who were supporting the Kalispel Casino would provide the same support to the Spokanes or the Colvilles. Mr. Keiffer passed out copies of his letter and left the remainder on the back table.

David Montecucco, Silver Lanes Bowling Center and Casino responded to several references that had been made to tax rates. He said the issue was compacts versus community impact fee,

not tax rates. He pointed out that Director Bishop stated that due to federal regulation they were not allowed to negotiate tax. While this was true, at the same time, that was the wrong term to use. He said they should be talking about the benefit and the impact for the citizens, not just the tribe. He said in Spokane where they pay 21.75 right off the top, the folks in Airway Heights would have a difficult time justifying how the community impact is only going to be two or four percent or it can be designated by a committee when the entire City of Spokane tell them that 20 percent is not enough to cover the impacts based on gambling.

Mr. Montecucco said the other issue pertained to the slide show on health, safety and environment standards regarding state versus federal. He said currently there were no federal standards regulating air quality, utilities, and specific road traffic problems. He challenged anyone to present actual documentation that leads to environmental standards from the federal level. He said all they ask is that businesses be regulated equally within the state. Assuming that the project is approved and the tribes are successful, he wondered if there would be any restrictions keeping the Carnival Resort/ Kalispel from going into the non tribal arena and, for example, they fill their 50 tables and they want to get 15 more and they want to compete on a non tribal basis. He wondered if they could do that or if they would be restricted to tribally compacted facilities – the one location. He said that on the list that is before the Commission of upcoming licensees, there are tribal entities that are on that list.

Commissoner Ludwig said that tribal members can do anything in this state that other citizens can do.

Mr. Montecucco said he was listening to Senator Prentice on the radio talking about seven licensed facilities and local mini-casinos and the fact that the state might be reaching saturation, he wondered if there was any way to get the Kalispels re-evaluate their projections and re-think it because there are so many casinos operating at this time. He said the Montecucco family was first-generation Americans and they talk with an accent, but they believe in free enterprise and they will compete, but they would like to compete on an equal ground.

Todd Mielke?, Silver Lanes said he wanted to reiterate one more time just to make sure that the Commission looked at a lot of comments being expressed over the last few months where they are talking about the competitive market in the Spokane area. He said that the gaming facilities in the Spokane area so far are supporting 800 jobs and he thought there was no doubt that the people who hold those positions feel at risk and are concerned about what the potential impact is. As the Gambling Commission moves forward and considers regulations in the future about trying to maintain some semblance of a level playing field, he hopes they will keep that in mind and look at the difference between what the different gaming facilities are paying.

Mr. Mielke said that the second point was to offer a suggestion for inclusion of one more section in the compact. He said it's unfortunate that the history that Washington State has had not to the fault of the Kalispels, but to other tribes, is that once they've started their operation, [end of Tape 1 Side B]

[beginning of Tape 2 Side A]

offset the impacts to the local communities in the way of funding where suddenly that's not that important any more and those community contributions aren't being made. He suggested that the Commission consider negotiating a provision that simply states or acknowledges that there are a number of agreements that have come into place prior to this compact being signed that are absolutely integral to the gaming operation and those agreements include the agreement with the City of Airway Heights for those impact fees, includes an agreement with Carnival Resort about the management of the facility. It also apparently includes agreements with regard to the facility itself and property leasing. Everyone of those agreements is absolutely integral to the gaming facility and what his group suggests is that there be language inserted in the compact

that would state that any agreements entered into prior to the signing of compact that are directly integral to the gaming operation be adhered to and that if the tribe at some future date before those agreements come to some conclusion decides not to adhere to those positions that the compact is null and void.

Mr. Mielke suggested this as a potential tool that they could use in the future so if for some reason this compact or compacts in the future that suddenly go awry because one party decides not to adhere to the provisions that this would be one more tool that they could use to go back and hold all the parties responsible for the agreements that they've entered into and make sure they apply the rules as uniformly as possible and everybody is expected to follow through. This would protect all parties that enter this.

Commissioner Ludwig said his last comment sounded interesting to him, but he asked if Mr. Mielke thinks it would be appropriate to require Carnival and the Kalispels to stay in business together if either one or both of them wanted to sever the relationship.

Mr. Mielke said he was assuming that Carnival and the Kalispels in their signed agreement have both made provisions for how either part could get out of that contract and he was also assuming that if that contract were dissolved that it would meet the provisions of the agreement and perhaps would be dissolved in agreement. He said his suggestion would prevent the unilateral disobeying the provisions of the agreement, so if Carnival gets two years into a five-year agreement and the tribe simply says thank you for helping us out but we don't think we need your services anymore, then Carnival has something to go back on. Likewise, at Airway Heights, if two years down the road suddenly this tribe decides comes back two years from now and say it is not penciling out the way they thought it would and they can no longer afford to provide that two percent community impact fee to them, that Airway Heights has something that they can come back to. He said they understand the difficulties of legal action between the tribes, the state and the federal government and unless there is a specific provision in the compact that has not been adhered to, to actually take it up and be able to hold someone accountable.

Raymond Pendell, said he is an auctioneer who owns West Plains Equipment Auctions in Airway Heights and he is a sitting appointed planning commissioner for the City of Airway Heights. He has a business on the corner of Hayford Road and Highway 2 which is going to be about a half mile from the proposed casino site. He said he is also a member of the Airway Heights economic development committee which Julie Smitt had spoken to earlier. He favors the compact for the tribal casino. He said they would also be developing other things like the Camus Institute Drug and Alcohol and Rehabilitation Institute that is going to be in the same area. He believes that the activity planned for Airway Heights is going to breed a lot of other activity and businesses that will not only come to the City of Airway Heights but also to the county and the City of Spokane, too, as well. The Kalispel Tribe has made very positive overtures to the City of Airway Heights and to compare them to other tribal casinos in the state is not really fair because all tribes are different. They all have different people and ways of doing business and the Kalispels have set a good example on how to do business and be a positive impact to the community.

Mr. Pendell said he knew that the Spokane and Colville Tribes are very concerned about this and rightly so. He said it will be a first-class operation for gaming in the City of Airway Heights and he said he was also sympathetic to the state-regulated casinos that are in the city limits of Spokane and Spokane County such as Players and Spectators and Silver Lanes. They are dealing on a different playing field, but they are dealing with the state; they are not dealing with the feds and he encouraged them to work with their state Legislature to change the laws so they can be on a level playing field along with the rest of the casinos.

Doreen Foucheaux, was not present.

Paul Unger was not present.

Lucy Reiner said she is a resident of the City of Spokane. She said she agreed with a number of the previous comments that had been made in opposition to the casino. In addition, she wanted to comment on the term "level playing field." She said some of the businesses in the City of Spokane feel that they don't have the same level playing field as the tribes. She suggested that if these people were moved to the reservation and were instructed to figure out how to do economic development, would they feel it was a level playing field so far from the city? She thought they would not. She said she feels cheated as a citizen if they are talking about a level playing field? Governor Locke is supposed to represent the citizens, but they have not had an opportunity to really debate gambling in the city or in the county. This needs a lot more discussion than what they have had an opportunity to do so far. The number of card rooms in the City of Spokane and now with Airway Heights, it seems everything has been taken out of the citizen's hands. She said the citizens need to vote on these gaming institutions. As far as what the Indian Nation does, that's between them and the federal government. She said state citizens should not have a say in that.

Maureen Peterson, said her son is a compulsive gambler and has had this problem for 15 to 20 years. He has never had a problem finding a place to gamble in that time. He does not go to Indian casinos, but he has a weakness for card rooms. She is happy that money is being set aside to help people with these problems. She read a survey by Harvard that there are two percent of the population that are problem gamblers. She said she would like to register her support for the Kalispels and their casino.

Debbie Abrahamson said she was a member of the Spokane Tribe. After hearing some of the previous comments, she felt compelled to speak in favor of the Kalispel's business venture. She said it has been a creative process, and as a sovereign nation, it exemplifies the types of things that represent progress. She said it was unfortunate, but that once again it felt like they were standing before the majority society and asking permission to take care of themselves. She said that often when it comes to sovereign rights for her people there seems to be a lack of understanding in terms of what that basic relationship with the federal government is about. She said she is hearing that again today, but she could understand that people say some things out of fear in terms of their own business.

Ms. Abrahamson said that for the last 17 years she has been involved with chemical dependency and social services within the area of Spokane as well as within the reservation systems. She said there is very much a concern in her community as far as compulsive gambling and the addictive cycle. She attended training in Tacoma and she assured the group that the Native American Northwest Certification Board is looking at how the issue can be addressed in their community. They are trying to find solutions in terms of the issue of gambling the other issues that come about as the result of people unknowingly going into a venture like this and not understanding the impact to family or communities.

Ms. Abrahamson said that on a personal level her feelings about gambling are very ambivalent because she has watched her family deteriorate and know the impact that it has, but also knows that the help is becoming more available within her community as far as addressing issues. She thinks it important that they continue discussing the "level playing field" to understand that it's taken their tribes a long time to get to this point and even though maybe the Colville's and her own Spokane Tribe have concerns about movement away from the business or the business being taken away from them, she also believed that they were creative enough to find other means and be able to continue on in their own operations, so she commends the Kalispels for their effort as well as the City of Airway Heights because it really shows true partnership occurring and it allows them to be represented in the business community.

Joe Jensen was no longer present.

Don Kaufman, General Manager of Big Brothers and Big Sisters in Spokane County. They serve single-parent children providing them adult role models and they do that through revenue produced by their bingo operation which is state licensed. He said when a business first gets into gaming there is probably nothing to offer except honesty and integrity and that needs to be foremost. He recalled some of the history that has gone on in the process with the Kalispel Tribe. He referred to an article from the Spokesman Review dated 9-08-93 that said "The mayor of Airway Heights claims that the Kalispels were considering a bingo hall. Chairman of the tribe, Glen Nenema, stated that was once an option, but is no longer being considered."

Mr. Kaufman attended a hearing after the Kalispels had changed their mind and decided to get into gambling. He read from a document produced by the Kalispels dated 6-26-96, three years later. In that document the question was asked "How will the proposed Kalispel casino affect other Native American and non profit gaming and bingo operations in Eastern Washington?". The Kalispel's response was "It is believed that the Kalispel casino will not have an adverse effect on the other Indian and non profit operations. It is the intention of the tribe to work cooperatively with other non profit organizations for the benefit of everyone."

Mr. Kaufman pointed out that two or three years later they have heard nothing from the Kalispels or Carnival about working together and he wanted the Commission to be aware that right now the closest casino to their establishment is about 40 miles – they are surrounded by them. There's one in Worley at about 40 miles from them; there's one at Two Rivers at 60 miles, one at Bonners Ferry, another at Omak and one at Lewiston. He had provided the Commission with a document and referred to figures which showed that they have lost as an organization over \$1 million of gross income. They've lost well over \$200,000 of net income. Their attendance dropped from a peak of 204,000 plays to 145,000 plays which is a 29 percent decrease in attendance. On the last page he pointed out recent results that compare this year '98 through the first eight months with the first eight months of 1997. It showed another decrease of almost 11 percent in attendance, but a substantial decrease in net return. He said this is without a casino that's 10 minutes from their door.

Mr. Kaufman asked the Commission to take his remarks into consideration when they decide whether or not the Kalispels deserve a compact. He reiterated that honesty and integrity were probably the two most important things that anyone has to offer.

Mr. Robert Apple said he owned a restaurant, bar and has a full gambling license in the City of Spokane. He said he only exercises the pull tab portion of the license. He owns The Comet in the Northeast part of Spokane. He said he has no problem with the Kalispel proposal. His only concern was for regulation and he felt sure that was probably being taken care of already. He said he sees the trend in the country and as a result he has extended their pull tab license because that's where they see the money and the people's interest. He said his place isn't big enough to put in full gambling facilities and he would not be able to assure that it was being run right. He said the larger the business is, the more likely they are to succeed.

Mr. Apple said the Kalispel proposal looked okay to him. He didn't think they would be as large as Las Vegas, but for some in the region, they probably would be the place to go. He said it will be a good place to attract conventions to Spokane. He thinks there will be large acceptance. He knows about gambling addictions, but he says people become addicted to sugar and become diabetic and we don't pull sugar off the shelves. He said he invests in the stockmarket and sometimes he wins and sometimes he doesn't. When he grocery shops he looks for the best buys, but sometimes he finds out a week later he could have found a better deal elsewhere. He said it's all a gamble. He said when people win they take the credit for their good planning and when they lose, they think it's horrible and they're addicted and the family has to pay. He said mistakes are made and this is the risk you take when you gamble. He said well regulated gambling is not a problem and he only hopes there is enough regulation to assure that it is clean

and safe. He doesn't want to see people win a prize and not able to collect it. That destroys an industry and he doesn't want that to happen. He said that this idea is not new; it has been being discussed for the last few years and he hopes the compact is approved.

Charlene Abrahamson, member of the Spokane Tribe, but her heritage includes some Kalispel, Couer d' Alene and Colville. She said she is most concerned about people's attitudes and their ignorance about tribes and their sovereign and treaty rights. She referred to someone's comment about previous agreements with tribes who haven't given their percentage to the communities. She said they have had treaties for hundreds of years that haven't been followed through on and she said she wished they did have some grounds to go back and address some of those things other than through lengthy legal procedures. She said what she really challenged the state with is better education about tribes and real history. She says her own daughter brings home erroneous ideas about tribes and tribal people. She said that starting at an early age might address some of the things that upset her the most is that some thing that if the money goes to the Indians that would be a terrible thing. She said tribes live here and bring their money here; they spend money here – they buy cars, clothes and food. Many conferences come that bring in money and revenue to the state. These things are overlooked and she thinks the state should bear some of the responsibility to teach the public about these things. She said she wished that those who were talking about a level playing field would devote more of their energy to making sure it was level 10 years ago, 5 years ago, 100 years ago and only now when the playing field is not quite level for them do we hear about a level playing field.

Ms. Abrahamson said she works in non profit agencies in Spokane and she understands and cares about the plight of agencies such as Big Brothers and Big Sisters, but as a fundraiser herself for a different organization, she said it demanded creativity at all times to find other outlets and ways to raise money and she questions that the drop was created purely by tribal casinos

Toni Lodge, said she is an enrolled tribal member and has been before the Commission three or four times on this subject. She said her husband is a Kalispel. She said she has lived in the area for 20 years and is the director of a non profit organization in Spokane County that serves youth of all ethnic backgrounds – African American, Hispanic, Asian-Pacific Islanders, Caucasian. As an Indian organization they do not discriminate or refuse services to anybody. She said it is important to remember that in the state of Washington 73 percent of native peoples live in urban areas such as Seattle, Spokane and Tacoma. She said they experience all the winner and loser categories – statistics that people on reservations experience with drop-out rates, unemployment – all the social problems that are seen anywhere across this country on reservations are multiplied times 10 in the Indian community in urban areas. Ten thousand native people live in Spokane County and represent over 80 tribes – not just the Kalispel Tribe.

Ms. Lodge said she is excited about the collaboration and partnerships that this compact represents. She said this is the first time a tribe has come into an urban area with a corporation with cities, with citizens. People are coming together to try and create solutions. She said one of her experiences as the director of a non profit organization in Spokane county is that even though gaming has increased dramatically in the City of Spokane, the revenue into the city general fund that goes out to non profit services has dramatically decreased. For example, she said that at the same time seven card rooms had been added to the city, she has had to decrease her substance abuse program for kids over the past three years from \$15,000 to \$6,000 to run a whole program for 100 kids. Part of that loss of revenue is unpaid gaming revenues that the city has not been able to collect and so the benefit has not been passed on to the community.

Ms. Lodge she said the other things she sees in the area is the issue of welfare reform. She said the young woman from Silver Lanes was exactly right. Welfare reform is here; it is a reality mandated by the Congress, by the President, by the Governor and the Legislature of this state. It is happening in the communities. Gaming is one of the industries where single women can get \$10 to \$15 an hour to support their families. She is also excited by the Camus Institute. In the

Spokane Indian community over the last five years, they have lost two major support systems – Indian Health Service Clinic and Gonzaga University's Indian Education Center. There are only two social service centers to serve 10,000 Indian people in Spokane County – her agency and the American Indian Community Center. She is excited by the idea of help and believes the help will be forthcoming because the Kalispels have been known to be people who play as a team. She urged the Commission to support the compact and she is looking forward to an exciting relationship.

Dr. John Rotchford said he has practiced medicine in this community for about 25 years or more. He has serious apprehensions about the location of this casino as to Fairchild Air Force Base. There are hundreds of young airmen and airwomen out there who get a regular paycheck. To have this casino so close to Fairchild Air Force Base is a serious matter and this is something that the Commission should give grave consideration to because it is a great responsibility not only because of the financial impact on the young people at Fairchild, but the sociological impacts as well. The second point he wished to make was regarding an article in the Spokesman Review stating that approximately \$20 million per annum will be extracted from this community into this casino that is over the first year. He wonders how many millions of dollars can this community continue to have extracted from it. He said there already are a fair number of small gambling enterprises within the city limits and then to bring in a sizeable casino close at hand, in addition to being close to Fairchild doesn't make sense to him.

Janet Dibler, said she is an assistant vice president and branch manager of Inland Northwest Bank, Airway Heights Office. She is two miles down the road from Fairchild Air Force Base and she banks a large number of their accounts. She said they were quite responsible adults. The \$11 million a year in payroll coming from the casino will not be a detriment to Spokane or Airway Heights. She said it would boost the economic development of the community.

Ms. Dibler said a few months ago she saw the heart of the Kalispel Tribe at their Pow Wow. She said those young dancers are the community's future. This will bring the Camus Institute – it's for everyone; not just for the Kalispels. She said if she had children her children would go to visit there to see what they were doing. Seventy percent of what the Kalispels bring into the casino will stay with the Kalispels. That will remain within the community as well. She said this would create a domino effect with other businesses moving in. The casino will employ 500 people. With other businesses coming in, that will employ many more people. Airway Heights needs this boost and she said no one ever knows what the future will bring for anyone. She said she could be an unemployed banker down the road, or policeman or attorney or blackjack dealer. She said if she had a chance to get a job with the Kalispel Casino, there's her future employer. She urged the approval of the project

Wilma Cullooyah said she is a member of the Kalispel Tribe. She referred to a comment regarding the paper that proved that the casino location is Indian land. She said her elders have the proof. She also referred to a comment about how the compact would impact the children who would be living in that community. She wondered if they had thought to ask about Indian children over the last 100 years because they are now struggling to revive their language and culture because of the impact on their children who are their great, great grandparents over the last 100 years. She wished the Indian people could have a Commission decide the impact on Indian children over the last 100 years. She urges support for the Kalispel Tribe Project in their endeavor to take care of their children's future.

Rachael LeVasseur? said she didn't come here to speak, but she is compelled to do so. Most of what she's heard today is about money. Her concern is about the negative impact this will have on the young people. She is trying to raise a teenage boy which is not easy and with all the card rooms in Spokane, it makes her job harder. She said she resents the comparison between supermarkets and sugar and gambling. She said they were not the same thing. She wondered why gambling establishments are even being considered when it is known that it causes people

to require treatment and counseling. .

Acting Chairman Forrest asked if there were any others who would like to speak and no one came forward. He then explained the ground rules. He said the five Commission members and the four ex officio Legislative members all will vote on this project. All will be on a speaker telephone so that they can cast their votes. He said they would reconvene at 4:15 for that part. He then introduced the ex officio members: Senator Margarita Prentice and Senator Ray Schow; Representative Ruth Fischer and Karen Schmidt. Two regular Commission members would be participating by telephone: Liz McLaughlin and Judge Ed Heavey.

4:18 p.m. reconvened meeting

[end of Tape 2 Side A]

[beginning of Tape 3 Side A]

Acting Chairman Forrest said all voting members were present and he called for a motion.

Senator Prentice moved to approve the Tribal State Compact for Class III Gaming between the Kalispel Tribe of Indians and the State of Washington. **Commissioner Herbold** seconded the motion.

Acting Chairman Forrest said he would ask each person individually to make a statement, ask questions or argue as they go through. He called on the present members first. He called on Senator Prentice first as the maker of the motion.

Senator Prentice said it is important to address some of the issues that have come up today. With regard to the location of the casino, this Gambling Commission does not have a say, so that has been settled. According to legal procedures by Secretary of Interior, Babbitt and Governor Locke, she said they needed to look back at the purpose of IGRA. She said the reason they were dealing with gambling at all is because the Congress gave that to the tribes and the Commission is required to follow the law. Now their responsibility is to look at what is in the compact – that is their charge. She finds no legal impediments. She said it is difficult for some non native people to grasp what is meant by sovereign nation status. She said regardless of that lack of understanding, that is just how it is – they are sovereign nations and they are required if they are going to be having gambling activities to negotiate a compact. The Kalispel Tribe made an assessment and like everyone else they saw a changing field and they made their decision. They were approached, but they also made a decision that she believes must be respected. They decided that they would not go the road of other tribes; they decided they would follow the law and they followed what has obviously been a grueling process. Even today has been fairly grueling and yet they have endured that with great patience. At no time did the tribe indicate they don't intend to follow the law and she has a great respect for that.

Sen. Prentice referred to many comments made about the Carnival Casino operation. She said it is important to recognize that there's no way that they can expect the Kalispel Tribe to have the gambling know-how at this time. They haven't had that experience and there are some things that have been learned along the way as tribes had negotiated compacts and have attempted to operate them. She knows that Carnival scrutinized the market extremely carefully so for that reason she will be voting yes.

Commissioner Herbold said she gave a list of typographical errors to Amy Patjens, which do not make substantive changes but she will be talking to the agents for the other party and hopefully those will be taken care of. She said she is also concerned about problem gambling, but it is not the role of the Gambling Commission to deal with that. She said that through the Problem Gambling Council, the Commission has done what they can to address the problem, but she knows it is out there and has seen statistics indicating that it's getting worse as more and

more opportunity for gambling are out there and she is concerned about that. She is also sympathetic to the people who have talked about what they feel is the inequity of the two percent community contribution versus the 20 plus percent that the non tribal gambling industry has to pay. Again, that is not the role of the Gambling Commission; those are laws that the Commission has to abide by.

Commissioner Herbold said she doesn't know if she would agree or disagree with the decision with respect to this particular site. All those hearings took place with the community and the Governor's people before she was on the Commission. What concerns her is whether this will establish a precedent. She knows that the information is coming out that the rules are going to be more difficult and that it won't establish a precedent, but she also knows that rules change with the political winds. Maybe this will happen again and again and it will result in an expansion of gambling. She said that is the critical problem that the people of this state need to deal with. This tribe cannot be penalized for having gone through the process that they did and they've done everything legally. Her worry is that they will see this repeated again and again creating an expansion of gambling which is not really within the contemplation of the people of this state and this state needs to cope with that through its legislation and through the awareness of the people. Commissioner Herbold said the Commission's job is to license and regulate and the compact that is before them is fair, it's been legally arrived at, and she will vote in favor of it.

Commissioner Ludwig said he concurred with much of what Senator Prentice and Commissioner Herbold have said regarding the Commission's role in making a decision on this compact. Specifically, he has great respect for some of the people in the Legislature that wrote them a letter discussing the location and that decision has already been made and is not before the Commission now. He also addressed what many people referred to throughout the hearing – the level playing field. He said that Congress enacted the law that they were dealing with. Congress did not make any provision regarding a level playing field for Native American Tribes and non Indians, so they are dealing with that based on the statute and nothing more.

Commissioner Ludwig said that the Commission is not a policy making body. They do license and regulate. He reminded everyone that the cost of that regulation, whether it's a tribal casino or a house banked card room is not done at taxpayer's expense, with general fund dollars; it's paid for by the fees that the Commission charges both the tribes to regulate and the non Indian gambling operations. He said that is the mission and the goal of the Commission. He referred to the comments made about an out-of-state management company taking some money out of Washington. He said that was well provided for and discussed in the federal statute. There is a provision for management services and contracts with some very strict limitations. Insofar as meeting state requirements, there is another management company doing work for a Native American tribe over on the west side. Their name is even up on the casino and they're licensed in New Jersey with facilities in Atlantic City. They are licensed in Nevada with facilities in Reno and Las Vegas and elsewhere as well. Even though those companies are in the gambling business and very active in the industry, the fact that they were licensed in Atlantic City and in Nevada didn't make any difference to this Commission with a very thorough investigation, an expensive investigation conducted before they licensed that management facility and it was paid for by that licensee, so this isn't somebody just coming in and taking money out there. They're operating within the federal statute. Those two concerns were expressed and those are not the Commission's concern. The Commission's concern is the compact. It is about the 20th such compact and very similar to the other 19 and as good as and in a couple minor respects, better for the state of Washington. Therefore, he has no reason to not vote to approve this 20th compact.

Chairman McLaughlin said the Kalispel Tribe has been through years to get to this point and have showed such good faith to comply with both IGRA and to have a compact with the state of Washington. She said this compact has certainly been generous in the contribution to Airway Heights and the community around them. She understands the concern of the businesses in the

area, but only time will tell about that and that every issue that comes up for a hearing has its pros and cons, but she believed the process has been fair and her vote is yes.

Commissioner Heavey said he has no comment other than that he is familiar with and is fully informed on the issues, he attended the first hearing as well, and is in favor of the compact.

Senator Schow said he feels strongly that it's the Legislature's position to set policy and it seemed that setting the precedent of locating a casino off of tribal land on newly-acquired trust land takes state into a whole new realm of expansion of gambling and for that reason he will be voting no.

Representative Fisher said she didn't have a lot of comment to make, but she appreciates the comments of the other commissioners.

Representative Schmidt said she is also troubled by the decision to alter the policy the Legislature has had on the citing of this casino. She has talked to members of the House Labor Committee and to their leadership and there is a very strong feeling that this is setting a precedent that should not be set and that the Governor erred in his decision to move forward on this and there was not sufficient consultation with the Legislature as this new path was taken. For that reason, she will be voting the wishes of her caucus and that is in opposition to this.

Acting Chairman Forrest said the only thing that he would need to add to what his colleagues had to say, is that that the problem is never easy because there are competing interests and this is the world we live in. There are competing economic interests, competing social interests, they heard concerns about the damage gambling does and they've heard the good the casino can bring in jobs and activity and there is a split even in the community here. To him, this is a rather straightforward case. The details of the compact are essentially those that they have had before and, as noted, with some small improvements and he believes the question of location has been settled by the action of the Governor and the Secretary of the Interior and that he will be casting a vote aye. He asked if anyone wishes to have any more discussion. There was none.

Polled votes: **Senator Prentice**, aye; **Commissioner Herbold**, aye; **Commissioner Ludwig**, aye; **Commissioner McLaughlin**, aye; **Commissioner Heavey**, aye; **Senator Schow**, no; **Representative Fisher**, aye; **Representative Schmidt**, no, and **Acting Chairman Forrest**, aye.

Acting Chairman Forrest announced that the compact had been approved with seven aye votes and two no votes.

Acting Chairman Forrest said the presentations were to the point; they were thoughtful and helpful, and unlike some contentious meetings he had attended, everyone acted like a gentleman and gentlewoman and gave their best thoughts and he said he knew he spoke for the Commission saying thank you very much and good luck to the tribe.

Acting-Chairman Forrest adjourned the hearing.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Yeager

Executive Assistant